Labour Courts.

Q.—87. Sri D. VENKATESH (Gandhinagar).—

Will the Government be pleased to state :—

whether they intend to constitute a labour Court or Courts, as required under section XXVIII (b) ?

A.—Sri A. G. RAMACHANDRA RAO (Minister for Law and Education).—

The matter is under consideration.

Sri D. VENKATESH.—Will the Government be pleased to put the long awaited consideration into action so as to give immediate relief ?

Sri A. G. RAMACHANDRA RAO.—The entire matter of relationship between the management and the Labour is again under the comprehensive consideration of the Government of India and we are awaiting their report.

Sri R. ANANTARAMAN.—Are the Government aware that even small cases are placed before Labour Tribunal ?

Sri A. G. RAMACHANDRA RAO.—I am aware of that. That is why along with Mysore State the other States have also made representations.

Sri R. ANANTARAMAN.—Is it under the consideration of the Government to place labour cases before the First Class Magistrate ?

Sri A. G. RAMACHANDRA RAO.—No.

Sri R. ANANTARAMAN.—Will it not be possible for the Government to introduce legislation to see that they are placed before the First Class Magistrate ?

Sri A. G. RAMACHANDRA RAO.—The view of the Government is that the judiciary may not be the proper tribunal for labour cases.

List of candidates for appointment as Munsiffs sent by the High Court.

Q.—155. Sri J. MOHAMED IMAM (Jagalur).—

Will the Government be pleased to state :—

(*a*) whether it is a fact that the High Court of Mysore sent up a list of candidates to the Government for being appointed as Munsiffs in the existing vacancies ;

(*b*) whether the Government have accepted this list and made appointments accordingly ;

(*c*) if not, the reasons for not accepting the list of names sent by the High Court ?

A.—Sri A. G. RAMACHANDRA RAO (Minister for Law and Education).—

(*a*) Yes.

(*b*) No.

(*c*) The list was too big and the data for selection from the list was not avaiable.

Sri J. MOHAMED IMAM.—Did the Government ask the High Court of Mysore to send up a list of candidates ?

Sri A. G. RAMACHANDRA RAO.—Yes, that a minimum and small list may be sent up.

Sri J. MOHAMED IMAM.—How many candidates did the Government want ?

Sri A. G. RAMACHANDRA RAO.—At that time it was felt that about half a dozen are required.

Sri J. MOHAMED IMAM.—What is the number of vacancies of Munsiffs that exist now ?

Sri A. G. RAMACHANDRA RAO.—At present I do not think there is any vacancy.

Sri J. MOHAMED IMAM.—How were these vacancies filled up ?

Sri A. G. RAMACHANDRA RAO.—In the course of retrenchment some additional posts were required and all the vacancies have been filled up.

Sri J. MOHAMED IMAM.—What was the practice existing till now in the Government for selecting candidates for appointment as Munsiffs ?

Sri A. G. RAMACHANDRA RAO.—They used to get recommendations from the High Court and the Government considered them.

Sri J. MOHAMED IMAM.—Is it not a fact that the Government invariably accepted the recommendations of the High Court and appointed Munsiffs in accordance with the list sent by the High Court ?

Sri A. G. RAMACHANDRA RAO.—Not invariably.

Sri J. MOHAMED IMAM.—They were at least guided by the list sent by the High Court—is it not ?

Sri A. G. RAMACHANDRA RAO.—Yes.

Sri J. MOHAMED IMAM.—When was the list sent by the High Court ? Is it after the Government made any appointments of Munsiffs ?

Sri A. G. RAMACHANDRA RAO.—No fresh appointments have been made.

Sri J. MOHAMED IMAM.—When were the vacancies filled up and from what list were the candidates selected ?

Sri A. G. RAMACHANDRA RAO.—I have answered that question. From the list no candidate has been chosen nor from any outside list any fresh appointment has been made.

Sri J. MOHAMED IMAM.—You said that the list is very big. How big it is ?

Sri A. G. RAMACHANDRA RAO.—About 21 names.

Sri J. MOHAMED IMAM.—Is it not a fact that the usual practice is to select the candidates according to vacancies and as and when occasion arises ?

Sri A. G. RAMACHANDRA RAO.—Even that we attempted. We asked for the data that they had in recommending candidates and that data were not unfortunately available to the Government.

Sri J. MOHAMED IMAM.—Is it not a fact that the High Court, before they sent up the list, interviewed the candidates and made their recommendation ? Did they not follow the usual procedure which they followed in the previous years ?

Sri A. G. RAMACHANDRA RAO.—The procedure adopted, we are not aware of, nor have we been informed.

Sri J. MOHAMED IMAM.—Have the Government laid down any procedure for selecting candidates ?

Sri A. G. RAMACHANDRA RAO.—I do not think that any procedure has been laid down.

Sri J. MOHAMED IMAM.—What was the practice prevailing previously to select candidates for the posts of Munsiffs ?

Sri K. HANUMANTHAIYA (Chief Minister).—Sir, the question is not one of what was the practice prevailing previously ; it s a question of implementing the provisions of the Constitution which have come into operation more than two years back. The recruitment to the lower judiciary has to be done in pursuance of Article 234 and the Government is trying to implement the provisions of the Constitution.

Sri J. MOHAMED IMAM.—What are the rules that are now laid down for the selection of candidates to the Munsiff's Cadre ?

Sri K. HANUMANTHAIYA.—Rules are being framed and they will be issued in the course of this week.

Sri J. MOHAMED IMAM.—Have the Government consulted the High Court in framing the rules ?

Sri K. HANUMANTHAIYA.—Yes, sir.

Sri J. MOHAMED IMAM.—Is it not a fact that the discretion in the selection of candidates must vest with the High Court and not with the Government ?

Sri K. HANUMANTHAIYA.—It is neither with the Government nor with the High Court. It is in accordance with the rules that are to be framed that the Munsiffs should

be recruited. It is a wrong idea to suppose that either the High Court or the Government should have the discretion in the matter. It is according to the rules that are to be framed under the Constitution that the Munsiffs should be recruited.

Sri J. MOHAMED IMAM.— Who frames the rules ?

Sri K. HANUMANTHAIYA.— The Government frames in consultation with the Public Service Commission and the High Court.

Sri J. MOHAMED IMAM.— If the Government have not taken action to frame these rules and without framing these rules how did the Government ask the High Court to furnish that list ?

Sri K. HANUMANTHAIYA.— The Government has taken all available steps. In order to get these rules framed Government wrote nearly a year back to the High Court to send draft set of rules. The delay was on the part of the High Court in not sending the draft rules. Thereupon Government itself, because of the delay, has drafted the rules and sent them to the High Court and the Public Service Commission. They are being finalised.

Sri J. MOHAMED IMAM.— May I put it that this list which was sent by the High Court was not to the liking of the Government ?

Sri K. HANUMANTHAIYA.— It is not a question of liking. It is a question of recruiting proper personnel to the judiciary and that can only be done if it is recruited according to rules and on the basis of efficiency and merit.

Sri J. MOHAMED IMAM.— Did the Government satisfy itself before rejecting the list that the personnel included therein are not proper persons ?

Sri K. HANUMANTHAIYA.— It was for that very purpose Government asked the High Court to furnish to the Government what were the bases, what were the reasons for the selection of the candidates amidst much greater number that were interviewed. That information was not supplied to Government. Therefore, the Government could not accept the list.

Sri J. MOHAMED IMAM.— Is it not a fact that on account of the controversy between the Government and the High Court many Munsiffs' Courts are going without Munsiffs, especially Davangere High Court ?

Sri K. HANUMANTHAIYA.— Fortunately there is no High Court in Davangere but there is a Munsiff's Court. It must be admitted that there was some delay in posting a Munsiff to Davangere. Unfortunately it is true that controversies between individuals or between institutions always bring certain amount of difficulties.

Sri J. MOHAMED IMAM.— Is it not a fact that this is the first time that such an unfortunate controversy has arisen between the Government and the High Court ?

Sri K. HANUMANTHAIYA.— Fortunately this is the first time that we are implementing the provisions of the Constitution.

Sri A. BHEEMAPPA NAIK.— Will the Government be pleased to state, how efficiency and merit will be judged ; is it by examination or is it by interviewing or is it by *viva-voce* or what is the method ?

Sri K. HANUMANTHAIYA.— Rules have been framed and I may take the House into confidence and disclose the provisions of the rules. As the Hon'ble Member suggested, certain marks have been allotted to examination, certain marks have been allotted to *viva-voce* tests and certain marks for general knowledge. The total number of marks obtained will be the basis on which candidates will be selected.

Sri A. BHEEMAPPA NAIK.— Will the opinion of the Munsiffs in whose courts these people will be practising also count in considering these appointments ?

Sri K. HANUMANTHAIYA.—Yes, sir. There is one such rule. I may correct the Member. Munsiff's opinion will not be taken; it is the District Judge's opinion that will be taken.

Sri A. BHEEMAPPA NAIK.—What about the safeguarding of the interests of the Backward and unrepresented classes candidates in selecting for these posts?

Sri K. HANUMANTHAIYA.—There is a constitutional provision that inadequately represented communities must be adequately represented in the services. That very principle has been incorporated as one of the rules in these draft rules.

Sri A. BHEEMAPPA NAIK.—In any case will the Government be pleased to assure that the best candidates in each community and, taking backward community into consideration, the best among them will also be given representation for each community and not taking the whole into consideration?

Sri K. HANUMANTHAIYA.—It was because Government was completely in agreement with the ideal adumbrated by my friend that all these controversies have arisen.

Sri A. BHEEMAPPA NAIK.—Thank you, sir.

Sri M. V. RAMA RAO.—May I know whether the list of 21 persons was sent by the High Court of its own accord or whether such list was called for?

Sri A. G. RAMACHANDRA RAO.—I have answered that question, Sir, but I shall repeat. We wanted a small number just to fill up the vacancies but they sent 21 instead of 5 or 6 which were necessary.

Sri M. V. RAMA RAO.—What was the number that was called for?

Sri A. G. RAMACHANDRA RAO.—We did not call for any such list.

Sri M. V. RAMA RAO.—What was the sie of your requirement, Sir?

Sri A. G. RAMACHANDRA RAO.—The contingency arose like this. Bellary was integrated. From the Bellary Courts the judiciary was withdrawn by the Madras Government and we had to fill up 5 posts as there were 5 vacancies in the integrated Bellary District.

Sri M. V. RAMA RAO.—If 5 names had been suggested by the High Court, it would have met the wishes of the Government adequately. Is that the position?

Sri A. G. RAMACHANDRA RAO.—That would have met the contingency that had arisen.

Sri M. V. RAMA RAO.—What was the particular difficulty for the Government in selecting 5 suitable candidates out of the long list that was sent by the High Court?

Sri K. HANUMANTHAIYA.—It is not the question of selection of only 5 candidates. Once this list was approved then we had to guarantee all the 21 persons that they would be recruited as and when the vacancies arose. That would have taken one or two years. Our difficulty is that we want to implement the provisions of the Constitution and recruitment has to take place according to the rules. In order to enforce these rules we did not accept the list of 21 candidates. That is one reason; and the second reason is that Government was not given the information regarding the basis of selection.

Sri M. V. RAMA RAO.—What I was trying to know was this. When there was specific number of vacancies in existence and the Government was desirous of filling up these vacancies in Bellary area but no rule existed under the Constitution for the recruitment of officers lower in grade than District Judges, then what was the brackground under which those appointments had to be made in the opinion of the Government?

Sri K. HANUMANTHAIYA.—Rules had to be framed and therefore all this delay has taken place.

Mr. SPEAKER.—I may draw the attention of the member to Article 234 of the Constitution of India. If the

rules had not been framed in accordance with the Article 234 of the Constitution what were the alternative rules in accordance with which these appointments were contemplated by the Government ?

Sri K. HANUMANTHAIYA.—That has already been answered by my Hon. colleague that the High Court would send the list and that Government would make a recommendation to the Rajpramukh to make appointments.

Sri M. V. RAMA RAO.—Is it that there are no rules at present existing for the recruitment of officers lower in grade than the District Judges ?

Sri K. HANUMANTHAIYA.—The very fact that we are framing the rules is a proof that there were no rules.

Sri M. V. RAMA RAO.—Then how were the appointments being made ?

Sri K. HANUMANTHAIYA.—In the old set up it was probably in an informal way that they were doing.

ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ.—ಹೈಕೋರ್ಟಿನವರು ಕಳುಹಿಸಿದ್ದ 21 ಹೆಸರುಗಳನ್ನೂ ಕೂಡ, ಅವರಿಗೆ ಅಧಿಕಾರ ಕೊಡಲೇಬೇಕೆಂದು ಕಂಡೀಷನ್ ಹಾಕಿದ್ದರೇ ?

ಶ್ರೀ ಕೆ. ಹನುಮಂತಯ್ಯ.—ಕಂಡೀಷನ್ ಕೇಳಲಿ, ಕೇಳದೇ ಇರಲಿ, ಅರ್ಥ ಇಷ್ಟೆ. ಆ ಜನರನ್ನು ನೇಮಕ ಮಾಡಬೇಕೆಂದು ಹೇಳಿದೆ.

ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ.—ಹಾಗಾದರೆ ಹೈಕೋರ್ಟಿನವರು ಕಳುಹಿಸಿದ ಪಟ್ಟಿ ಒಹಳ ಉದ್ದವಾಗಿತ್ತು ಎಂಬ ಕಾರಣದಿಂದ ಅದನ್ನು ಕಡೆಗಣಿಸಿ, ಸರ್ಕಾರವೇ ತನ್ನ ಇಷ್ಟಬಂದ ರೀತಿಯಲ್ಲಿ ಹುದ್ದೆಗಳಿಗೆ ಜನರನ್ನು ಆರಿಸಿತು ಎಂದು ಭಾವಿಸೋಣವೇ ?

ಶ್ರೀ ಕೆ. ಹನುಮಂತಯ್ಯ.—ತಾವು ಆ ರೀತಿ ಭಾವನೆ ಮಾಡಿಕೊಂಡು ಹೋಗುತ್ತಿದ್ದರೆ ಬಹಳ ಕಷ್ಟವಾಗುತ್ತದೆ.

ಶ್ರೀ ಎಸ್. ಗೋಪಾಲಗೌಡ.—ತಾವು ಅಪ್ಪಣೆ ಕೊಡಿಸಿರತಕ್ಕ ಹೇಳಿಕೆಯಿಂದ ಆ ರೀತಿ ತೀರ್ಮಾನ ಮಾಡಬೇಕಾಗಿದೆ.

Sri K. HANUMANTHAIYA.—There was another difficulty. I would like to say if the House shows me some indulgence—there was not even one Harijan in the list. Government has taken a decision that 16 2/3% of the vacancies must be filled by Harijans. That was also the reason why we could not accept that list.

Sri MULKA GOVINDA REDDY.—When did the Constitution of India come into force, Sir ?

Sri A. G. RAMACHANDRA RAO.—It is known to all Sir ; it is 26th January 1950.

Sri MULKA GOVINDA REDDY.—Why did the Government not take sufficient precaution to frame the rules for the last 4 years ?

Sri K. HANUMANTHAIYA.—That is not a question which we can answer.

Sri MULKA GOVINDA REDDY.—My question is, why did not the Government take sufficient precautions to frame the rules for recruitment to the lower courts for the last 4 years ?

Sri K. HANUMANTHAIYA.—That has already been answered. So far as Government is concerned, we requested the High Court long back to send a draft set of rules. That itself shows our *bona fides*. We wanted the High Court to take initiative in the matter and give us a draft set of rules so that the independence of the judiciary may be, as far as possible, safeguarded.

Sri MULKA GOVINDA REDDY.—For the last 4 years you have never taken any steps to do it except asking the High Court to frame the rules ; is it so Sir ?

Sri K. HANUMANTHAIYA.—What else can be done ?

Sri MULKA GOVINDA REDDY—When did you ask the High Court ?

Sri K. HANUMANTHAIYA.—As soon as we could do so.

Sri MULKA GOVINDA REDDY.—You kept quiet for 3 years.

Sri K. HANUMANTHAIYA.—I did not keep quiet for 3 years.

Sri MULKA GOVINDA REDDY.—Then, why did they take 3 years ?

Sri K. HANUMANTHAIYA.—They were also thinking of framing the rules and there was some delay in obtaining information from the concerned, namely, the Public Service Commission and the High Court.

Sri MULKA GOVINDA REDDY Is it not a violation of the Constitution ?

Sri K. HANUMANTHAIYA.—No. There is a little delay in implementing the provisions of the Constitution; that is all.

Sri B. P. NAGARAJA MURTHY.—Were there any applications from the Scheduled Classes Sir?

Mr. SPEAKER.—It is answered.

Sri B. P. NAGARAJA MURTHY.—Is it not a condition that the candidate must have put in 3 years practice?

Sri K. HANUMANTHAIYA.—In the draft rules it is 3 years; we have insisted upon 4 years.

Sri B. P. NAGARAJA MURTHY.—Suppose there was no candidate who had put in 4 years' practice. Is the Government going to stick on to the decision taken?

Sri K. HANUMANTHAIYA.—No. In the rules themselves we have framed that wherever there is not a Harijan up to that requirement, certain amount of leniency must be shown.

Sri T. MARIAPPA.—Will the Government be pleased to state the number of vacancies and the number of vacancies that are likely to arise in the course of a year or two?

Sri K. HANUMANTHAIYA.—Notice.

Sri T. MARIAPPA.—Will the Government be pleased to state that when rules were not yet framed how did they call for a list from the High Court?

Sri K. HANUMANTHAIYA.—That was, as they say, in the old informal way in which it was then done.

Sri T. MARIAPPA.—If it was the intention of the Government to fill these vacancies in accordance with the rules, why did they call for a list of candidates?

Sri A. G. RAMACHANDRA RAO.—Well, while the rules were not framed, we wanted to see that we appointed the minimum number to avoid the difficulties.

Sri T. MARIAPPA.—The Chief Minister categorically stated that the appointments had to be made in accordance with the rules to be framed. If that was so, bearing that fact in mind, the calling for the list from the High Court, is it not embarassing the High Court?

Sri K. HANUMANTHAIYA.—Rules had to be framed and recruitment had to take place on that basis. In the interim period the Government wanted to have 2 or 3 names from the High Court so that they may recommend to the Rajpramukh.

Sri T. MARIAPPA.—Even prior to framing of the rules?

Sri A. G. RAMACHANDRA RAO.—Obviously.

Sri T. MARIAPPA.—In that case, what were the difficulties in accepting 5 or 6 names from that list?

Sri A. G. RAMACHANDRA RAO.—We asked for data. We wanted to know the principle on which this selection must be made. That was denied to us unfortunately.

Sri T. MARIAPPA.—What was the data?

Sri A. G. RAMACHANDRA RAO.—About qualification, practice and the relevant factors.

Sri R. ANANTARAMAN.—Have you made any provision to appoint ladies to the post of Munsiff Sir?

Sri K. HANUMANTHAIYA.—My Hon'ble friend may take consolation that we make no difference between men and women. (Laughter.)

Lady Doctor in Mental Hospital, Bangalore.

Q.—5. Sri S. KARIAPPA (Virupakshapura).—

Will the Government be pleased to state:—

(*a*) whether the place of the lady doctor in the Mental Hospital, Bangalore, has been kept unfilled;

(*b*) since how long it has been vacant?